

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA
(Small Business Administration),

Plaintiff

v.

JOHN DOE and RICHARD ROE, as
those unknown persons who may be
the holders of the lost mortgage
note or have any interest in
this proceeding,

Defendants

CIVIL NO. 10-1217 (JP)

FINAL JUDGMENT BY DEFAULT

The Court has before it Plaintiff United States of America's ("USA") motion for judgment by default (**No. 10**). The motion is **GRANTED**.

I. FINDINGS OF FACT

On or before June 10, 1999, Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado received from the USA, acting through the Small Business Administration, a loan in the amount of \$9,000.00 on the property described herein below.

In evidence of the money lent by Plaintiff USA, Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado executed in favor of Plaintiff a promissory note dated June 10, 1999, in the amount of

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\$9,000.00, at 3.437% interest rate, payable to Small Business Administration.

To secure the payment of said promissory note, Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado executed a First Mortgage in favor of Plaintiff USA, on June 10, 1999, by First Mortgage Deed No. 69 before notary public Antonio Barceló-Jiménez.

The above-described mortgage was made over the following property, described in the Spanish language as:

URBANA: Solar situado en el BARRIO MABU de Humacao, que mide 168.00 metros cuadrados de extensión superficial, o sea, por el frente que es el Este, mide 5.00 metros y colinda con la Calle de la Barriada; y por el Oeste, en 9.00 metros, y colinda con Carlos A. Beltrey; por el Norte, mide 24.00 metros y colinda con Calle de la Barriada; y por el Sur, mide 24.00 metros y colinda con Cristina Vélez. Enclava una casa.

The aforementioned First Mortgage Deed executed in favor of Plaintiff USA was duly recorded in the Registry of Property of Humacao, Puerto Rico, at page 201, of volume 154 of Humacao, property number 4688, 3rd inscription, where it remains in full force and effect.

According to information received from the USA, the original promissory note of \$9,000.00, dated June 10, 1999, while in possession of and under the custody of the Small Business Administration, was lost, misplaced or destroyed and although a

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thorough search has been made, it has been unable to find or locate said note.

The indebtedness assumed by Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado to Plaintiff USA has been paid in full.

II. ANALYSIS

Under Articles 132 and 134 of the Mortgage Law of 1979 and 28 U.S.C. § 1655, when a mortgage note has been lost as alleged above, the mortgage may be canceled by the Registrar of Property only by judicial decree obtained by a court of competent jurisdiction in a civil proceeding such as authorized by the Code of Civil Procedure of Puerto Rico, in which the court decrees that the mortgage obligation is extinguished. P.R. Laws Ann. tit. 30, §§ 2456 and 2458. The Court is informed by Plaintiff that the indebtedness assumed by Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado has been paid in full.

Defendants were duly served by publication pursuant to the Court's Order (No. 4). Notice was published in the newspaper "El Nuevo Día" on May 19 and 26, of 2010, and on June 2, 9, 16, and 23, of 2010, as per the verified statement filed with the Clerk of this Court (No. 8) pursuant to Rule 4 of the Rules of Civil Procedure of Puerto Rico, and as required by Article 82 of the Mortgage Law, P.R. Laws Ann. tit. 30, § 156, and 28 U.S.C. § 1655. Despite service by publication, none of the Defendants have answered

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the Complaint. The Clerk of the Court entered default on July 27, 2010 (No. 11).

The Court hereby **ORDERS**:

- (1) That Judgment be entered against Defendants herein declaring that the aforementioned mortgage obligation is extinguished.
- (2) That the promissory note in the amounts of \$9,000.00 of principal with interest at the rate of 3.437% per annum, on the unpaid balance executed by Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado on June 10, 1999, in the possession of whomsoever it may now be or become in the future, be hereby declared null and void, and therefore canceled.
- (3) That the Registrar of Property of Humacao, Puerto Rico, cancel and nullify the real estate voluntary mortgage executed by Julio Ortiz-Rodríguez and Elsie Margarita López-Cuadrado to secure the payment of the promissory note above described constituted by the terms of Voluntary Mortgage Deed No. 69, executed before notary public Antonio Barceló-Jiménez on June 10, 1999, and which was recorded in the Registry of Property of Humacao, Puerto Rico, at page 201,

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volume 154 of Humacao, Puerto Rico, property
number 4688, 3rd inscription.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 28th day of July, 2010.

s/Jaime Pieras, Jr.

JAIME PIERAS, JR.

U.S. SENIOR DISTRICT JUDGE